SLS 09RS-196 **ENGROSSED**

Regular Session, 2009

SENATE BILL NO. 296

BY SENATOR B. GAUTREAUX

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

RETIREMENT SYSTEMS. Provides for the determination of system liabilities and for the payment of such liabilities. (6/30/09)

AN ACT

To amend and reenact R.S. 11:42(B)(5) and (11), 102(B)(1), (2)(b)(i) and (ii) and (c), (3)(b) and (c), and (5), 542(A), (B), (C)(1)(introductory paragraph), (2), (3), (4)(a)(introductory paragraph), (b)(introductory paragraph), and (c), (5)(a)(i) and (b), and (E), and 883.1(A), (B), (C)(1)(introductory paragraph), (2), (3), (4)(a)(introductory paragraph), (b)(introductory paragraph), and (c), (E), and (F), to enact R.S. 11:102.1, 102.2, 542(C)(4)(d) and (e) and (F), and 883.1(C)(4)(d) and (e) and (G), and to repeal R.S. 11:542(D) and 883.1(D), relative to the liabilities of the state retirement systems; to provide for payment of such liabilities; to provide for employer contributions; to limit creation of certain additional liabilities through benefit increases; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11: 42(B)(5) and (11), 102(B)(1), (2)(b)(i) and (ii) and (c), (3)(b) and (c), and (5), 542(A), (B), (C)(1)(introductory paragraph), (2), (3), (4)(a)(introductory paragraph), (b)(introductory paragraph), and (c), (5)(a)(i) and (b), and (E), and 883.1(A), (B), (C)(1)(introductory paragraph), (2), (3), (4)(a)(introductory paragraph), (b)(introductory paragraph), and (c), (E), and (F), are hereby amended and reenacted and R.S. 11: 102.1, 102.2, 542(C)(4)(d) and (e) and (F) and 883.1(C)(4)(d) and (e) and (G) are hereby enacted to read as follows:

§42. Unfunded accrued liabilities; amortization

* * *

B. The provisions of this Subsection shall be implemented and accomplished by the governing authorities of the state and statewide public retirement systems as set forth herein.

* * *

(5)**(a)** Louisiana State Employees' Retirement System. The unfunded accrued liability, as of June 30, 1988, determined under the funding method specified in R.S. 11:22(B)(6), shall be amortized over a forty-year period, commencing with Fiscal Year 1989-1990. The outstanding balance of the unfunded accrued liability as of July 1, 1992, shall be amortized over the remaining thirty-seven-year period with payments forming an annuity increasing at four and one-half percent annually.

(b) The outstanding balance of this unfunded accrued liability as of June 30, 2009, shall be consolidated with other amortization bases and credits as provided in R.S. 11:102.1, and that consolidated total shall be amortized over the remaining constitutionally-mandated period with annual payments beginning in Fiscal Year 2010-2011. The final payment shall be made in Fiscal Year 2028-2029.

* * *

(11)**(a)** Teachers' Retirement System of Louisiana. The unfunded accrued liability, as of June 30, 1988, determined under the funding method specified in R.S. 11:22(B)(13), shall be amortized over a forty-year period, commencing with the Fiscal Year 1989-1990. The outstanding balance of the unfunded accrued liability as of July 1, 1992, shall be amortized over the remaining thirty-seven-year period with payments forming an annuity increasing at four and one-half percent annually.

(b) The outstanding balance of this unfunded accrued liability as of June

<u>30, 2009, shall be consolidated with other amortization bases and credits as provided in R.S. 11:102.2, and that consolidated total shall be amortized over the remaining constitutionally-mandated period with annual payments beginning in Fiscal Year 2010-2011. The final payment shall be made in Fiscal Year 2028-2029.</u>

* * *

§102. Employer contributions; determination; state systems

* * *

B.(1) Except as provided in **<u>R.S. 11:102.1 and 102.2 and in</u>** Paragraph (5) of this Subsection, for each fiscal year, commencing with Fiscal Year 1989-1990, for each of the public retirement systems referenced in Subsection A of this Section, the legislature shall set the required employer contribution rate equal to the actuarially required employer contribution, as determined under Paragraph (3) of this Subsection, divided by the total projected payroll of all active members of each particular system for the fiscal year. Each entity funding a portion of a member's salary shall also fund the employer's contribution on that portion of the member's salary at the employer contribution rate specified in this Subsection.

(2) At the end of each fiscal year, the difference between the actuarially required employer contribution for the fiscal year, as determined under Paragraph (3) of this Subsection, and the amount of employer contributions actually received for the fiscal year, excluding any amounts received for the extraordinary purchase of additional benefits or service, shall be determined.

* * *

(b) At the end of each fiscal year, the difference between the minimum employer contribution, as required by the Constitution of Louisiana, and the actuarially required employer contribution for the fiscal year, as determined under Paragraph (3) of this Subsection, shall be determined and applied in accordance with the following provisions:

(i) The amount, if any, shall be accumulated in an ~~Employer Credit Account.~~

~~The Employer Credit Account~~ **<u>employer credit account. For any fiscal year beginning on or before July 1, 2008, the employer credit account</u>** shall be credited and accumulate interest at the actuarial rate of return earned by the system annually. **<u>For the 2009-2010 Fiscal Year and for each fiscal year thereafter, the employer credit account shall be credited annually with interest at the actuarially-assumed interest rate.</u>**

(ii) ~~Annual~~ **<u>After the unfunded accrued liability that existed as of June 30, 2004, has been extinguished, annual</u>** contributions required in accordance with this Subsection, or the constitutional minimum if greater, may be funded in whole or in part from the ~~Employer Credit Account~~ **<u>employer credit account</u>**, provided the employee contribution rate for the system as set forth in R.S. 11:62 has been reduced to an amount equal to or less than fifty percent of the annual normal cost, rounded to the nearest one-quarter percent.

* * *

(c) ~~Differences~~ **<u>Except as provided in R.S. 11:102.1 and 102.2, differences</u>** occurring for any other reason shall be added to or subtracted from the following fiscal year's actuarially required employer contribution in accordance with Subparagraph (3)(c) of this Subsection.

* * *

(3) With respect to each state public retirement system, the actuarially required employer contribution for each fiscal year, commencing with Fiscal Year 1989-1990, shall be that dollar amount equal to the sum of:

* * *

(b) That fiscal year's payment, computed as of the first of that fiscal year and projected to the middle of that fiscal year at the ~~actuarially assumed~~ **<u>actuarially-assumed</u>** interest rate, **<u>taking into account consolidation with other amortization bases, if any, as provided in R.S. 11:42, 102.1, and 102.2, and</u>** using the system's amortization method specified in R.S. 11:42, necessary to amortize the unfunded accrued liability as of June 30, 1988, such unfunded accrued liability computed using the system's actuarial funding method as specified in R.S. 11:22.

(c) ~~That~~ **Except as provided in R.S. 11:102.1 and 102.2, that** fiscal year's payment, computed as of the first of that fiscal year and projected to the middle of that fiscal year at the ~~actuarially assumed~~ **actuarially-assumed** interest rate, necessary to amortize the prior year's over or underpayment as a level dollar amount over a period of five years.

* * *

(5)**(a)** Notwithstanding the provisions of this Section, the gross employer contribution rate~~, exclusive of any funds from the Texaco settlement,~~ for the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana shall not be less than fifteen and one-half percent per year until such time as the unfunded accrued liability that existed on June 30, ~~1988,~~ **2004,** is fully funded.

(b) At the end of each fiscal year, the difference, if any, by which the fixed minimum employer contribution rate established pursuant to this Paragraph exceeds the greater of the minimum employer contribution required by Article X, Section 29 of the Constitution of Louisiana or the statutory minimum employer contribution rate calculated according to the methodology provided for in Items (i) through (iv) of Paragraph (3) of this Subsection shall be accumulated in an ~~Employer Credit Account~~ **employer credit account** for the respective system.

(c) ~~The Employer Credit Account~~ **For fiscal years beginning on or before July 1, 2008, the employer credit account** shall be credited **annually** with that portion of the system's net investment income attributable to the balance in the account. **For the 2009-2010 Fiscal Year and for each fiscal year thereafter, the employer credit account shall be credited annually with interest at the actuarially-assumed interest rate.**

(d)(i) Except as provided in R.S. 11:102.1 and 102.2, ~~The Employer Credit Account~~ **the employer credit account** of a system shall be used exclusively to reduce any unfunded accrued liability of that system created before July 1, 2004, and

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

shall not be debited for any other purpose.

(ii) Beginning in Fiscal Year 2009-2010 and effective for the June 30, 2009, system valuation, any funds in the system's employer credit account shall be applied to the remaining balance of the original amortization base or the experience account amortization base established in accordance with and as further provided by R.S. 11:102.1 or 102.2.

§102.1. Consolidation of amortization payment schedules; Louisiana State Employees' Retirement System

A.(1) For the Louisiana State Employees' Retirement System, effective for the June 30, 2009, system valuation and with payments beginning in Fiscal Year 2010-2011, all amortization bases existing on July 1, 2008, shall be consolidated as provided in this Section.

(2) There shall be two consolidated amortization bases calculated and amortized as provided in this Section. Any existing amortization base not included in a consolidated base pursuant to this Section shall remain separate and continue to be amortized and funded as otherwise provided by law.

(3) Beginning with Fiscal Year 2008-2009 and for each fiscal year thereafter, that year's changes, gains, and losses shall be calculated and payments therefor determined as provided in R.S. 11:102, except as otherwise specified in this Section.

B. Original amortization base.

(1) The remaining balances of outstanding amortization bases in excess of twenty years for the years 1993 through 1995, 1997 and 1998, and 2005 through 2007, excluding the amortization base for liability created by Act No. 414 of the 2007 Regular Session of the Legislature, as specified in the June 30, 2008 system valuation adopted by the Public Retirement Systems' Actuarial Committee on February 5, 2009, shall be consolidated into a single amortization base effective for the June 30, 2009 system valuation.

(2)(a) To this base shall be added any monies in the separate fund known

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

alternatively as the "Texaco Account" or the "Initial Unfunded Accrued Liability Account" on June 30, 2009, and any appropriation provided in the 2009 Regular Session of the Legislature.

(b) The balance in this account as of June 30, 2008, shall be credited with interest at the system's actuarially-assumed interest rate until the funds in the account are applied as provided in this Subsection.

(3)(a) This consolidated amortization base shall be known as the "original amortization base" and shall be amortized with annual payments as follows:

(i) For the Fiscal Year 2010-2011, the payment shall be one hundred forty-six million sixty-one thousand eight hundred eighty-eight dollars.

(ii) Payments thereafter shall form an annuity increasing at six and one-half percent for one year, at five and one-half percent annually for the following four years, and at five percent annually for the following two years.

(iii) Beginning in Fiscal Year 2018-2019, the payments shall be amortized over the remaining period with payments forming an annuity at two percent annually.

(b) The first payment after this consolidation shall be made in Fiscal Year 2010-2011 and the final payment in Fiscal Year 2028-2029.

(4) In any year in which the system exceeds its actuarially-assumed rate of return, the first fifty million dollars of excess returns shall be applied to the remaining balance of the original amortization base established in this Subsection. After such application, the net remaining liability shall be reamortized over the remaining amortization period with annual payments calculated as provided in this Subsection or as otherwise provided by law.

(5) Notwithstanding the provisions of R.S. 11:102(B)(3)(c) and (5) or any other provision of law to the contrary, in any year through Fiscal Year 2016-2017 in which the system receives an overpayment of employer contributions as determined pursuant to R.S. 11:102(B)(2) and in any year through Fiscal

Year 2016-2017 in which the system receives additional contributions pursuant to R.S. 11:102(B)(5), the amount of such overpayment or additional contribution shall be applied to the remaining balance of the original amortization base established pursuant to this Subsection. After such application, the net remaining liability shall be reamortized over the remaining amortization period with annual payments calculated as provided in this Subsection or as otherwise provided by law.

C. Experience account amortization base.

(1) The remaining balances of outstanding amortization bases for the years 1996, 1999 through 2004, and 2008, as specified in the system valuation adopted by the Public Retirement Systems' Actuarial Committee on February 5, 2009, shall be consolidated into a single amortization base, effective for the June 30, 2009, system valuation.

(2) To this shall be added the balance in the experience account or the balance in the subaccount of the Texaco Account pursuant to R.S. 11:542(A)(1)(b)(iii).

(3) This consolidated amortization base shall be known as the "experience account amortization base" and shall be amortized with annual payments over a thirty-year period beginning in Fiscal Year 2010-2011 as follows:

(a) For Fiscal Year 2010-2011, the payment shall be one hundred sixty-four million nine hundred seventy-two thousand one hundred fifty-six dollars.

(b) Payments thereafter shall form an annuity increasing at six and one-half percent for one year, five and one-half percent for the following four years, and five percent for the following two years.

(c) Beginning in Fiscal Year 2018-2019, the outstanding balance shall be amortized over the remaining period with annual level dollar payments.

(4) In any year in which the excess returns of the system exceed the amount in Paragraph (B)(4) of this Section, the next fifty million dollars of

excess returns shall be applied to the experience account amortization base established in this Subsection. After such application, the net remaining liability shall be reamortized over the remaining amortization period with annual payments calculated as provided in this Subsection or as otherwise provided by law.

(5) Notwithstanding the provisions of R.S. 11:102(B)(3)(c) and (5) or any other provision of law to the contrary, in any year from Fiscal Year 2017-2018 through Fiscal Year 2039-2040 in which the system receives an overpayment of employer contributions as determined pursuant to R.S. 11:102(B)(2) and in any year from Fiscal Year 2017-2018 through Fiscal Year 2039-2040 in which the system receives additional contributions pursuant to R.S. 11:102(B)(5), the amount of such overpayment or additional contribution shall be applied to the remaining balance of the experience account amortization base established pursuant to this Subsection. After such application, the net remaining liability shall be reamortized over the remaining amortization period with annual payments calculated as provided in this Subsection or as otherwise provided by law.

§102.2. Consolidation of amortization payment schedules; Teachers' Retirement System of Louisiana

A.(1) For the Teachers' Retirement System of Louisiana, effective for the June 30, 2009, system valuation and with annual payments beginning in Fiscal Year 2010-2011, all amortization bases existing on July 1, 2008, shall be consolidated as provided in this Section.

(2) There shall be two consolidated amortization bases calculated and amortized as provided in this Section.

(3) Beginning with Fiscal Year 2008-2009 and for each fiscal year thereafter, that year's changes, gains, and losses shall be calculated and payments therefor determined as provided in R.S. 11:102, except as otherwise specified in this Section.

B. Original amortization base.

(1) The remaining balances of outstanding amortization bases for the years 1993 through 1996, 1998 through 2000, and 2005 through 2008 as specified in the June 30, 2008 system valuation adopted by the Public Retirement Systems' Actuarial Committee on February 5, 2009, shall be consolidated into a single amortization base effective for the June 30, 2009 system valuation.

(2)(a) To this base shall be added any monies in the separate fund known alternatively as the "Texaco Account" or the "Initial Unfunded Accrued Liability Account"on June 30, 2009, and any appropriation provided in the 2009 Regular Session of the Legislature. The balance in this account as of June 30, 2008, shall be credited with interest at the system's actuarially-assumed interest rate until the funds in the account are applied as provided in this Subsection.

(b) To this base shall also be added any monies in the employer credit account on June 30, 2009.

(3)(a) This consolidated amortization base shall be known as the "original amortization base" and shall be amortized with annual payments as follows:

(i) For Fiscal Year 2010-2011, the payment shall be one hundred ninety-nine million eight hundred forty-one thousand five hundred seventy-seven dollars.

(ii) Payments thereafter shall form an annuity increasing at seven percent annually for three years and at six and one-half percent annually for the following four years.

(iii) Beginning in Fiscal Year 2018-2019, the payments shall be amortized over the remaining period with payments forming an annuity at two percent annually.

(b) The first payment shall be made in Fiscal Year 2010-2011 and the

final payment in Fiscal Year 2028-2029.

(4) In any year in which the system exceeds its actuarially-assumed rate of return, the first one hundred million dollars of excess returns shall be applied to the remaining balance of the original amortization base established in this Subsection. After such application, the net remaining liability shall be reamortized over the remaining amortization period with annual payments as provided in this Subsection or as otherwise provided by law.

C. Experience account amortization base.

(1) The remaining balances of outstanding amortization bases for the years 1997, 2001 through 2004, and 2008, as specified in the system valuation adopted by the Public Retirement Systems' Actuarial Committee on February 5, 2009, shall be consolidated into a single amortization base, effective for the June 30, 2009 system valuation.

(2) To this shall be added the balance in the experience account or the balance in the subaccount of the Texaco Account pursuant to R.S. 11:883.1(A)(1)(b)(iii).

(3) This consolidated amortization base shall be known as the "experience account amortization base" and shall be amortized with annual payments over a thirty-year period beginning in Fiscal Year 2010-2011 calculated as follows:

(a) For Fiscal Year 2010-2011, the payment shall be two hundred forty-eight million two hundred twenty-two thousand six hundred eighty-one dollars.

(b) Payments thereafter shall form an annuity increasing at seven percent annually for three years and at six and one-half percent annually for the following four years.

(c) Beginning in Fiscal Year 2018-2019, the outstanding balance shall be amortized over the remaining period with annual level dollar payments.

(4) In any year in which the excess returns exceed the amount in Paragraph (B)(4) of this Section, the next one hundred million dollars of excess

returns shall be applied to the experience account amortization base established in this Subsection. After such application, the net remaining liability shall be reamortized over the remaining amortization period with annual payments calculated as provided in this Subsection or as otherwise provided by law.

(5) Notwithstanding the provisions of R.S. 11:102(B)(3)(c) and (5) or any other provision of law to the contrary, in any year from Fiscal Year 2009-2010 through Fiscal Year 2039-2040 in which the system receives an overpayment of employer contributions as determined pursuant to R.S. 11:102(B)(2) and in any year from Fiscal Year 2009-2010 through Fiscal Year 2039-2040 in which the system receives additional contributions pursuant to R.S. 11:102(B)(5), the amount of such overpayment or additional contribution shall be applied to the remaining balance of the experience account amortization base established pursuant to this Subsection. After such application, the net remaining liability shall be reamortized over the remaining amortization period with annual payments calculated as provided in this Subsection or as otherwise provided by law.

* * *

§542. ~~Employee experience~~ **Experience** account

A.(1)**(a)** Effective July 1, 2004, the balance in the ~~employee~~ experience account shall be zero.

(b) Effective June 30, 2009, the balance in the experience account shall be zero. Any funds in the experience account on June 29, 2009, shall be allocated in the following order:

(i) To provide for any net investment loss attributable to the balance in the account as provided in Paragraph (B)(1) of this Section.

(ii) To fund any permanent benefit increase or minimum benefit pursuant to the Act that originated as House Bill No. 586 of the 2009 Regular Session of the Legislature.

(iii) To apply to the experience account amortization base as provided

in R.S. 11:102.1(C)(2); however, as of June 30, 2009, these funds shall be transferred to the system's Texaco Account and retained in a subaccount of that account until that account is applied as provided in R.S. 11:102.1.

(2) The ~~employee~~ experience account shall be credited as follows:

(a) To the extent permitted by Paragraph (3) of this Subsection **and after allocation to the consolidated amortization bases as provided in R.S. 11:102.1**, an amount not to exceed fifty percent of the **remaining balance of the** prior year's net investment experience gain as determined by the system's actuary.

(b) To the extent permitted by Paragraph (3) of this Subsection, an amount not to exceed that portion of the system's net investment income attributable to the balance in the ~~employee~~ experience account during the prior year.

(3) In no event shall the amount in the ~~employee~~ experience account exceed the reserve necessary to grant two ~~cost-of-living adjustments~~ **permanent benefit increases** as provided in Subsection C of this Section.

B. The ~~employee~~ experience account shall be debited as follows:

(1) An amount equal to that portion of the system's net investment loss attributable to the balance in the ~~employee~~ experience account during the prior year.

(2) An amount sufficient to fund a ~~cost-of-living adjustment~~ **permanent benefit increase** granted pursuant to Subsection C of this Section.

(3) In no event shall the amount in the ~~employee~~ experience account fall below zero.

C.(1) In accordance with the provisions of this Section, the board of trustees may recommend to the president of the Senate and the speaker of the House of Representatives that the system be permitted to grant a ~~cost-of-living~~ **permanent benefit** increase to retirees, survivors, and beneficiaries whenever **the conditions in Subsection F of this Section are satisfied and** the balance in the ~~employee~~ experience account is sufficient to fund such benefit fully on an actuarial basis, as determined by the system's actuary. If the legislative **auditor's** actuary disagrees with the determination of the system's actuary, a ~~cost-of-living~~ **permanent benefit** increase shall not be granted. The board of trustees shall not grant a ~~cost-of-living~~ **permanent benefit** increase unless such ~~cost-of-living~~ **permanent benefit** increase has been approved by the legislature by concurrent resolution adopted by the favorable vote of a majority of the elected members of each house. Any such ~~cost-of-living~~ **permanent benefit** increase shall be limited to and shall only be payable based on an amount not to exceed seventy thousand dollars of the retiree's annual benefit; however, effective for years after July 1, 1999, the seventy-thousand dollar limit shall be increased each year in an amount equal to any increase in the consumer price index (U.S. city average for all urban consumers (CPI-U)) for the preceding year, if any. Any increase granted pursuant to the provisions of this Subsection shall begin on the July first following legislative approval, shall be payable annually, and shall equal an amount not to exceed the lesser of:

* * *

(2) If the increase in the consumer price index, U.S. city average for all urban consumers (CPI-U), as prepared by the U.S. Department of Labor, Bureau of Labor Statistics, for the calendar year immediately preceding the ~~cost-of-living~~ **permanent benefit** increase is less than three percent, then the ~~cost-of-living~~ **permanent benefit** increase shall be a sum equal to the CPI-U increase for that prior calendar year, if any. **If the balance in the experience account is not sufficient to fund that sum, no increase shall be granted.**

(3) The percentage of each recipient's ~~cost-of-living~~ **permanent benefit** increase shall be based on the benefit being paid to the recipient on the effective date of the increase.

(4)(a) Except as provided in Subparagraph (c) of this Paragraph, in order to be eligible for ~~the cost-of-living~~ **any permanent benefit** increase **payable on or before June 30, 2009**, there must be the funds available in the ~~respective~~ experience account to pay for such an increase, and a retiree:

* * *

(b) Except as provided in Subparagraph (c) of this Paragraph, a nonretiree beneficiary ~~will~~ **shall** be eligible for the ~~cost-of-living~~ **permanent benefit** increase **payable on or before June 30, 2009**:

* * *

(c)(i) The provisions of Items (a)(ii)**,** ~~and~~ (b)(ii)**, (d)(ii), and (e)(ii)** of this Paragraph shall not apply to any person who receives disability benefits from this system, or who receives benefits based on the death of a disability retiree of this system.

(ii) The actuarial cost of implementing the provisions of Acts 2001, No. 1162, shall be paid by debiting the ~~employee~~ experience account which must have the funds available in the ~~respective~~ experience account to pay for such an increase.

(d) Except as provided in Subparagraph (c) of this Paragraph, in order to be eligible for any permanent benefit increase payable on or after July 1, 2009, there shall be the funds available in the experience account to pay for such an increase, and a retiree:

(i) Shall have received a benefit for at least one year; and

(ii) Shall have attained at least age sixty.

(e) Except as provided in Subparagraph (c) of this Paragraph, a nonretiree beneficiary shall be eligible for the permanent benefit increase payable on or after July 1, 2009:

(i) If benefits had been paid to the retiree or the beneficiary, or both combined, for at least one year; and

(ii) In no event before the retiree would have attained age sixty.

(5)(a) Effective September 1, 2001, any retiree receiving a retirement benefit shall be entitled to receive, as a ~~cost-of-living~~ **permanent benefit** increase, a minimum retirement benefit amounting to not less than thirty dollars per month for each year of creditable service of the retiree or the maximum benefit earned in accordance with the applicable benefit formula selected by the retiree at the time of retirement, whichever is greater.

(i) For any retiree who selected or selects an early retirement, an initial benefit option, or a retirement option allowing the payment of benefits to a beneficiary, there ~~will~~ **shall** be a comparison of both the minimum benefit provided for in this Paragraph and the maximum benefit and both such benefits shall be actuarially reduced based upon the option selected by the retiree and the current board-approved actuarial assumptions prior to the comparison and for the purpose of determining which of the two benefit amounts results in the greater amount and the greater amount shall be paid to the retiree.

* * *

(b) The minimum benefits provided for in this Paragraph shall apply to all retired members and beneficiaries receiving annuity payments or benefits on September 1, 2001, and to all members retiring on and after September 1, 2001, and to all beneficiaries receiving annuity payments on and after September 1, 2001, and all such payments shall be funded by debiting the ~~employee~~ experience account.

* * *

E. The first normal ~~cost-of-living~~ **permanent benefit** increase shall be effective July 1, 1999.

F. (1)The permanent benefit increase which is authorized by Subsection C of this Section shall be limited to the lesser of either two percent or an amount as determined in Paragraph (C)(2) of this Section in or for any year in which the system does not earn an actuarial rate of return of at least eight and one-quarter percent interest on the investment of the system's assets.

(2) No permanent benefit increase shall be authorized based on any actuarial valuation in which both of the following apply:

(a) The system fails to earn an actuarial rate of return which exceeds the board-approved actuarial valuation rate.

(b) The system is less than eighty percent funded.

* * *

§883.1. ~~Employee experience~~ **Experience** account

A.(1)**(a)** Effective July 1, 2004, the balance in the ~~employee~~ experience account shall be zero.

(b) Effective June 30, 2009, the balance in the experience account shall be zero. Any funds in the account on June 29, 2009, shall be allocated in the following order:

(i) To provide for any net investment loss attributable to the balance in the account as provided in Paragraph (B)(1) of this Section.

(ii) To fund any permanent benefit increase or minimum benefit pursuant to the Act that originated as House Bill No. 586 of the 2009 Regular Session of the Legislature.

(iii) To apply to the experience account amortization base pursuant to R.S. 11:102.2(C)(2); however, as of June 30, 2009, these funds shall be transferred to the system's Texaco Account and retained in a subaccount of that account until that account is applied as provided in R.S. 11:102.2.

(2) The ~~employee~~ experience account shall be credited as follows:

(a) To the extent permitted by Paragraph (3) of this Subsection **and after allocation to the consolidated amortization bases as provided in R.S. 11:102.2**, an amount not to exceed fifty percent of the **remaining balance of the** prior year's net investment experience gain as determined by the system's actuary.

(b) To the extent permitted by Paragraph (3) of this Subsection, an amount not to exceed that portion of the system's net investment income attributable to the balance in the ~~employee~~ experience account during the prior year.

(3) In no event shall the amount in the ~~employee~~ experience account exceed the reserve necessary to grant two ~~cost-of-living adjustments~~ **permanent benefit increases** as provided in Subsection C of this Section.

B. The ~~employee~~ experience account shall be debited as follows:

(1) An amount equal to that portion of the system's net investment loss attributable to the balance in the ~~employee~~ experience account during the prior year.

(2) An amount sufficient to fund a ~~cost-of-living adjustment~~ **permanent**

benefit increase granted pursuant to Subsection C of this Section.

(3) In no event shall the amount in the ~~employee~~ experience account fall below zero.

C.(1) In accordance with the provisions of this Section, the board of trustees may recommend to the president of the Senate and the speaker of the House of Representatives that the system be permitted to grant a ~~cost-of-living~~ **permanent benefit** increase to retirees and beneficiaries whenever **the conditions in Subsection G of this Section are satisfied and** the balance in the ~~employee~~ experience account is sufficient to fund such benefit fully on an actuarial basis, as determined by the system's actuary. If the legislative **auditor's** actuary disagrees with the determination of the system's actuary, a ~~cost-of-living~~ **permanent benefit** increase shall not be granted. The board of trustees shall not grant a ~~cost-of-living~~ **permanent benefit** increase unless such ~~cost-of-living~~ **permanent benefit** increase has been approved by the legislature by concurrent resolution adopted by a favorable vote of a majority of the elected members of each house. Any increase granted shall begin on the July first following legislative approval, shall be payable annually, and shall equal an amount not to exceed the lesser of:

* * *

(2) If the increase in the consumer price index, U.S. city average for all urban consumers (CPI-U), as prepared by the U.S. Department of Labor, Bureau of Labor Statistics, for the calendar year immediately preceding the ~~cost-of-living~~ **permanent benefit** increase is less than three percent, then the ~~cost-of-living~~ **permanent benefit** increase shall be a sum equal to the CPI-U increase for that prior calendar year, if any. **If the balance in the experience account is not sufficient to fund that sum, no increase shall be granted.**

(3) The percentage of each recipient's ~~cost-of-living~~ **permanent benefit** increase shall be based on the benefit being paid to the recipient on the effective date of the increase.

(4)(a) Except as provided in Subparagraph (c) of this Paragraph, in order to be eligible for ~~the cost-of-living~~ **any permanent benefit** increase **payable on or before June 30, 2009**, there must be the funds available in the ~~respective~~ experience account to pay for such an increase, and a retiree:

* * *

(b) Except as provided in Subparagraph (c) of this Paragraph, a nonretiree beneficiary ~~will~~ **shall** be eligible for the ~~cost-of-living~~ **permanent benefit** increase **payable on or before June 30, 2009**:

* * *

(c)(i) The provisions of Items (a)(ii)**,** ~~and~~ (b)(ii)**, (d)(ii), and (e)(ii)** of this Paragraph shall not apply to any person who receives disability benefits from this system, or who receives benefits based on the death of a disability retiree of this system.

(ii) The actuarial cost of implementing the provisions of Acts 2001, No. 1162, shall be paid by debiting the ~~employee~~ experience account which must have the funds available in the ~~respective~~ experience account to pay for such an increase.

(d) Except as provided in Subparagraph (c) of this Paragraph, in order to be eligible for any permanent benefit increase payable on or after July 1, 2009, there shall be the funds available in the experience account to pay for such an increase, and a retiree:

(i) Shall have received a benefit for at least one year; and

(ii) Shall have attained at least age sixty.

(e) Except as provided in Subparagraph (c) of this Paragraph, a nonretiree beneficiary shall be eligible for the permanent benefit increase payable on or after July 1, 2009:

(i) If benefits had been paid to the retiree or the beneficiary, or both combined, for at least one year; and

(ii) In no event before the retiree would have attained age sixty.

* * *

E. The first normal ~~cost-of-living~~ **permanent benefit** increase shall be

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

effective July 1, 1999.

F.(1)~~(a)~~ Notwithstanding any other provisions of this Section to the contrary, any ~~cost-of-living~~ **permanent benefit** increase shall be calculated only on the first seventy thousand dollars of the retiree's **annual** retirement benefit.

~~(b)~~ **(2)**The seventy-thousand dollar limit provided for in Subparagraph (a) of this Paragraph shall be increased each year in an amount equal to any increase in the consumer price index, U.S. city average for all urban consumers (CPI-U) for the preceding year, if any.

~~(2)~~ **G. (1)**The ~~cost-of-living~~ **permanent benefit** increase which is authorized by Subsection C of this Section shall be limited to the lesser of either two percent or an amount as determined in Paragraph (C)(2) of this Section in or for any year in which the system does not earn **an actuarial rate of return of** at least eight and one-quarter percent interest on the investment of the system's assets.

(2) No permanent benefit increase shall be authorized based on any actuarial valuation in which both of the following apply:

(a) The system fails to earn an actuarial rate of return which exceeds the board-approved actuarial valuation rate.

(b) The system is less than eighty percent funded.

Section 2. Any provisions of Act No. 4 of the 1994 Regular Session of the Legislature, Act No. 44 of the 1995 Regular Session of the Legislature, Act No. 6 of the 1996 Regular Session of the Legislature, Act No. 471 of the 1997 Regular Session of the Legislature, Act No. 642 of the 2006 Regular Session of the Legislature, and Act No. 7 of the 2008 Second Extraordinary Session of the Legislature which conflict with the provisions of this Act are hereby repealed.

Section 3. R.S. 11: 542(D) and 883.1(D) are hereby repealed.

Section 4. The provisions of this Act shall not affect the system valuations and the required employer contribution rates contained therein as adopted by the Public Retirement Systems' Actuarial Committee and shall not affect the employer contributions due and payable for the fiscal year beginning July 1, 2009.

Section 5. This Act shall become effective on June 30, 2009; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on June 30, 2009, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Laura Gail Sullivan.

DIGEST

B. Gautreaux (SB 296)

Proposed law generally consolidates amortization payment schedules for changes, gains, or losses together with credits in certain side accounts and reamortizes the net outstanding balances for the Louisiana State Employees' Retirement System (LASERS) and the Teachers' Retirement System of Louisiana (Teachers'). Provides for application of certain future gains and contributions to such amortization schedules and other components of annual required employer contributions.

Present law relative to amortization of the June 30, 1988, unfunded accrued liabilities (UAL) of LASERS and Teachers' provides for payments forming an annuity increasing at 4.5% annually through 2029. Present constitution requires this debt to be eliminated by 2029.

Proposed law consolidates the outstanding 1988 UAL balances with other amortization schedules and credits. Provides for annual payments as further provided by proposed law.

Present law provides for employer contributions to state retirement systems. Provides for amortization payments for changes, gains, and losses of each system.

Present law, relative to LASERS, provides for annual level-dollar payments over a 30-year period for changes, gains, and losses established before 1999 and after 2003. Provides for 4.5% increasing payments for those established from 1999 to 2003.

Proposed law consolidates the bases established 1999-2003 with other amortization schedules and credits and provides for annual payments as further provided in proposed law ending in fiscal year 2040.

Present law relative to Teachers' provides for annual level-dollar payments over a 30-year period for bases established before 2001 and after 2003. Provides for 4.5% increasing payments for bases established 2001-2003.

Proposed law consolidates the bases established 2001-2003 with other amortization schedules and credits and provides for annual payments as further provided in proposed law ending in fiscal year 2040.

Present law provides for a minimum employer contribution rate of 15.5% for Teachers' and LASERS until the 1988 UAL is fully funded. Provides for accumulation of the additional employer contributions paid at the 15.5% rate in an employer credit account. Provides that such account shall earn interest at the actuarial rate of return earned by the system. Provides that the employer credit account shall be used exclusively to reduce the UAL created before July 1, 2004.

Proposed law provides the minimum 15.5% shall apply until the UAL existing on June 30, 2004 is fully funded. Provides that for Fiscal Year 2009-2010 and thereafter, the employer credit account shall be credited with interest at the actuarially-assumed interest rate. Provides that funds in the employer credit account on June 30, 2009, shall be applied to reduce the experience account amortization base established pursuant to proposed law.

Provides that funds allocated to the employer credit account in future years shall be used to reduce the principal in the bases established pursuant to proposed law.

Proposed law provides for consolidation of existing amortization schedules for LASERS and Teachers'. Provides for favorable changes and gains and the balance of the "Initial UAL Account" to be applied to the outstanding balance of the 1988 UAL. Provides that for each system this consolidated schedule shall be known as the "original amortization base" and reamortized to 2029 as required by present constitution. Provides for unfavorable changes and losses and the balance in the system's experience account to be consolidated into a single amortization schedule to be known as the "experience account amortization base" for each system and amortized to 2040.

Proposed law provides for application of investment earnings in excess of the system's actuarial assumptions to that system's original amortization base and experience account amortization base. Provides for reamortization after such application.

Present law provides for an experience account for each system. Provides for credits and debits to such account.

Proposed law provides for application of the experience account balance of each system as of 6/30/09 to reduce the experience account amortization base.

Proposed law changes term "cost-of-living adjustment" to "permanent benefit increase." Provides that for increases payable on or after 7/1/09, a retiree shall have been retired for one year and have attained age 60.

Proposed law repeals obsolete provisions of present law.

Effective June 30, 2009.

(Amends R.S. 11:42(B)(5) and (11), 102(B)(1), (2)(b)(i) and (ii) and (c), (3)(b) and (c), and (5), 542(A), (B), (C)(1)(intro para), (2), (3), (4)(a)(intro para), (b)(intro para), and (c), (5)(a)(i) and (b), and (E), and 883.1(A), (B), (C)(1)(intro para), (2), (3), (4)(a)(intro para), (b)(intro para), and (c), (E), and (F); adds R.S. 11:102.1, 102.2, 542(C)(4)(d) and (e) and (F), and 883.1(C)(4)(d) and (e) and (G); repeals R.S. 11:542(D) and 883.1(D))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Retirement to the original bill.

1. Changes the payment schedules for amortization of the bases created in proposed law.

2. Applies the existing balance in the employer credit account to the original amortization base.

3. Provides for application of future overpayments or additional employer contributions to the amortization bases provided in proposed law.